

REMARKS

I. INTRODUCTION

This Amendment is filed in response to the Final Office Action mailed February 21, 2008 (the "*Final Office Action*"). In this Amendment, claims 44 and 45 are new. Claims 23-28, 40, and 41 are unchanged, and claims 29-39, 42 and 43 remain withdrawn. Following entry of this amendment, claims 23-28, 40, 41, 44, and 45 shall be pending.

In the Office Action, claims 23-28, 40 and 41 have been rejected based on prior art grounds. For the reasons set forth below, these rejections are hereby traversed.

II. REJECTIONS UNDER 35 U.S.C. §103(a)

Claims 23-28, 40, and 41 are rejected under 35 U.S.C. §103(a) as being anticipated by U.S. Patent No. 6,231,597 to Deem et al. ("*Deem et al.*") in view of U.S. Patent No. 5,234,456 to Silvestrini ("*Silvestrini*"). Of these claims, 23 and 40 are independent. Claims 24-28 depend from claim 23 and claim 41 depends from claim 40. For at least the reasons set forth below, it is submitted that these prior art rejections should be withdrawn and the pending claims allowed.

Both independent claims, 23 and 40, recite a reactive material, said reactive material being expanded when in a reacted state such that said reactive material restricts flow of blood to said vascular aneurysm when said reactive material is in said reacted state. The Examiner acknowledges that *Deem et al.* fail to disclose a reactive material being expandable when in a reacted state. With respect to this deficiency, the Examiner asserts that *Silvestrini* teaches a stent that can be partially made of a material that is expandable and, apparently for this reason alone, that it would have been obvious to one of ordinary skill in the art to make the covering 102 taught by *Deem et al.* of the hydrophilic material of *Silvestrini*. *Final Office Action* at ¶ 6 pages 3 and 4. Applicant strongly disagrees with this assertion.

Silvestrini discloses a tubular stent for maintaining a body lumen such as a vessel in an open configuration. One embodiment of the stent is constructed of hollow

fibers braided with solid fibers. Column 3, lines 35-37. The hollow fibers of the stent are formed of a permeable membrane within which is disposed a hydrophilic material capable of absorbing a liquid. *Id.* Absorption of the liquid increases the volume of the hydrophilic material and causes the fibers to achieve an inflated state. Column 3, lines 41-52. In use, the stent is placed in the desired location within the lumen and maintained for a period of time sufficient to allow for diffusion of the surrounding fluid into the membrane and swelling of the hydrophilic material. Column 3, lines 57-65. Upon inflation the stent independently remains in place by impinging on the interior wall of the lumen. *Id.*

One of ordinary skill in the art would not look to *Silvestrini* for an alternative material from which to form cover 102 of *Deem et al.* for several reasons. First, the single wire design of *Deem et al.* was chosen to minimize obstruction to flow through the healthy vessel while obstructing flow to the aneurysm. *Deem et al.* at column 5, lines 18-22. In order to form a seal over the opening to the aneurysm, *Deem et al.* use a cover that spans the gaps of the wire turns. *Deem et al.* at column 5, lines 47-55. As these gaps are already covered, one skilled in the art would have no motivation to look to *Silvestrini* for an expanding material as a replacement material for a cover that is already functioning.

Second, incorporating the expandable material of *Silvestrini* with the cover of *Deem et al.* would defeat the purpose of *Deem et al.* of maintaining an unobstructed open lumen through the healthy vessel. The cover of *Deem et al.* has significant surface area. If it were constructed from a hydrogel, it is likely that the cover would swell and occlude the healthy vessel as well as the opening to the aneurysm.

Third, *Silvestrini* is directed towards the opposite problem as addressed by *Deem et al.* *Deem et al.* is directed towards **restricting flow** to vascular abnormality and promoting clotting. *Deem et al.* column 5, lines 53-55. In contrast, *Silvestrini* is directed towards **increasing the flow** of fluids in body lumen. *Silvestrini* at BACKGROUND OF INVENTION. That the two devices are directed to diametrically opposed problems is further evidence that one skilled in the art would not be motivated to combine the teachings of *Silvestrini* with that of *Deem et al.*

Finally, the hydrophilic material of *Silvestrini* is deployed within hollow fibers as an internal fill material whereas cover 102 of *Deem et al.* is deployed on the surface of element 14 using a biocompatible adhesive or sutures. *Silvestrini* at column 3, lines 35-37 and *Deem et al.* column 5, lines 49-52, respectively. *Silvestrini* is totally silent with respect to any external or unconfined deployment of the hydrophilic material. There would, again, be no motivation for one skilled in the art to look to the *Silvestrini* material, found as an internal fill material in a device having a completely different purpose, to find a replacement cover material for the *Deem et al.* device.

Considering the above, it is evident that *Silvestrini* does not make up for the deficiency of *Deem et al.* to teach a reactive material being expandable when in a reacted state, as recited in claim 23 and 40 of the present application. Hence withdrawal of the present rejection is respectfully requested. Accordingly, at least for the above reasons, it is submitted that the dependant claims 23 and 40 are novel and unobvious over the cited prior art.

Turning to claims 24-28 and 41, these claims depend from claim 23 and 40 and are allowable for at least the same reasons as claims 23 and 40. Therefore claims 23-28 and 41 are also allowable and thus withdrawal of the present rejection and an indication of allowability of these claims is also respectfully requested. However, these claims further limit the claimed invention and are, thus, separately patentable over the cited prior art.

III. NEW CLAIMS

The Applicant respectfully requests entry of new claims 44 and 45. No new matter is introduced by way of these claims. Support for claims 44 and 45 is found throughout the present application and, more specifically, in FIGS. 4-5g, 7, 10-12, 22, and 23, and at paragraph [0075]. These claims are dependent claims that further limit independent claims 23 and 40. These claims do not raise new issues of patentability.

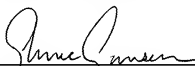
CONCLUSION

In view of the foregoing, it is submitted that pending claims 23-28 and 40 and 41 are now in condition for examination.

If for any reason direct communication with Applicant's attorney would serve to advance prosecution of this case to finality, the Examiner is cordially urged to call the undersigned attorney at the below listed telephone number.

The Commissioner is authorized to charge any additional fee which may be required in connection with this Amendment to deposit account No. 50-2809.

Respectfully submitted,



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Dated: May 21, 2008

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